

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

TIMOTHY KING, MARIAN ELLEN
SHERIDAN, JOHN EARL HAGGARD,
CHARLES JAMES RITCHARD, JAMES
DAVID HOOPER, and DAREN WADE
RUBINGH,

Plaintiffs,

v.

GRETCHEN WHITMER, in her official
capacity as Governor of Michigan,
JOCELYN BENSON, in her official
capacity as Michigan Secretary of State,
and MICHIGAN BOARD OF STATE
CANVASSERS.

Defendants.

DEMOCRATIC NATIONAL
COMMITTEE and MICHIGAN
DEMOCRATIC PARTY,

Intervenor-Defendants.

CITY OF DETROIT,

Intervenor-Defendants.

ROBERT DAVIS

Intervenor-Defendant.

CIVIL ACTION

Case No. 2:20-CV-13134

Hon. Linda V. Parker

**INTERVENOR-DEFENDANTS'
MOTION FOR LEAVE TO FILE
RESPONSE TO PLAINTIFFS'
SUBMISSION OF
SUPPLEMENTAL AUTHORITY**

EXPEDITED CONSIDERATION REQUESTED

NOW COMES Intervenor-Defendants, the Democratic National Committee and the Michigan Democratic Party, and hereby moves for leave to file a short, two-paragraph response to Plaintiffs' December 4, 2020 submission of supplemental authority (ECF Nos. 57 & 57-1), in which Plaintiffs identified a December 4, 2020 scheduling order from the U.S. District Court for the Eastern District of Wisconsin in *Feehan v. Wisconsin Elections Commission, et al.*, Case No. 20-cv-1771-pp (E.D. Wis. Dec. 4, 2020) (ECF No. 57-1). Plaintiffs also submitted a three-page, supplemental brief. (ECF No. 57, PageIDs 3198-3200).

Pursuant to Local Rule 7.1, on December 4, 2020, counsel for Intervenor-Defendants sought concurrence from Plaintiffs' counsel by way of written correspondence, and Plaintiffs' counsel concurs with the motion.

WHEREFORE, Intervenor-Defendants respectfully request that the Court grant this motion and accept the attached (Exhibit 1), proposed response to Plaintiffs' December 4, 2020 submission of supplemental authority.

Dated: December 4, 2020.

Respectfully submitted,

Marc E. Elias (DC #442007)
Jyoti Jasrasaria (DC #1671527)*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
jjasrasaria@perkinscoie.com

/s/ Scott R. Eldridge
Scott R. Eldridge (P66452)
MILLER CANFIELD
One Michigan Avenue, Suite 900
Lansing, Michigan 48933
Telephone: (517) 483-4918
eldridge@millercanfield.com

Mary Ellen Gurewitz (P25724)

William B. Stafford (WA #39849)*
Jonathan P. Hawley (WA #56297)*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
wstafford@perkinscoie.com
jhawley@perkinscoie.com

John F. Walsh (CO #16642)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1225 Seventeenth Street, Suite 2600
Denver, Colorado 80202
Telephone: (720) 274-3154
john.walsh@wilmerhale.com

CUMMINGS & CUMMINGS
423 North Main Street, Suite 200
Royal Oak, Michigan 48067
Telephone: (248) 733-3405
maryellen@cummingslawpllc.com

Seth P. Waxman (DC #257337)
Brian M. Boynton (DC #483187)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue NW
Washington, D.C. 20006
Telephone: (202) 663-6000
seth.waxman@wilmerhale.com
brian.boynton@wilmerhale.com

*Counsel for Intervenor-Defendants DNC Services Corporation/Democratic
National Committee and Michigan Democratic Party*

**Admission forthcoming*

CERTIFICATE OF SERVICE

Scott R. Eldridge certifies that on the 4th day of December 2020, he served a copy of the above document in this matter on all counsel of record and parties via the ECF system.

/s/ Scott R. Eldridge

Scott R. Eldridge

Exhibit 1

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

TIMOTHY KING, MARIAN ELLEN
SHERIDAN, JOHN EARL HAGGARD,
CHARLES JAMES RITCHARD, JAMES
DAVID HOOPER, and DAREN WADE
RUBINGH,

Plaintiffs,

v.

GRETCHEN WHITMER, in her official
capacity as Governor of Michigan,
JOCELYN BENSON, in her official
capacity as Michigan Secretary of State,
and MICHIGAN BOARD OF STATE
CANVASSERS.

Defendants.

DEMOCRATIC NATIONAL
COMMITTEE and MICHIGAN
DEMOCRATIC PARTY,

Intervenor-Defendants.

CITY OF DETROIT,

Intervenor-Defendants.

ROBERT DAVIS

Intervenor-Defendant.

CIVIL ACTION

Case No. 2:20-CV-13134

Hon. Linda V. Parker

**INTERVENOR-DEFENDANTS'
RESPONSE TO PLAINTIFFS'
SUBMISSION OF
SUPPLEMENTAL AUTHORITY**

In support of their motion for Declaratory, Emergency, and Permanent
Injunctive relief seeking to “de-certify” Michigan’s election (ECF No. 7), Plaintiffs

have submitted, as supposed “supplemental authority,” an order setting a briefing schedule in a case Plaintiffs’ counsel initiated in the U.S. District Court for the Eastern District of Wisconsin seeking to nullify the results of that state’s presidential election. *See* ECF No. 57 & 57-1. Plaintiffs contend that the scheduling order in the Wisconsin case “rebutts Defendant and Defendant Intervenors’ assertion of laches and abstention as grounds for dismissal of the Complaint and denial of Plaintiffs’ TRO motion” in the present action. ECF No. 57 at 3.

Plaintiffs’ characterization of the Wisconsin scheduling order is blatantly incorrect. The Wisconsin order *sets a briefing schedule*. It does not address or resolve the merits of any claims or defenses asserted in the Wisconsin case—including laches and abstention—let alone in this case. *See* ECF No. 14-1 at 7-10; ECF 31 at 3-7, 19-31; ECF No. 39 at 26-29, 30.

Dated: December 4, 2020.

Respectfully submitted,

Marc E. Elias (DC #442007)
Jyoti Jasrasaria (DC #1671527)*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
jjasrasaria@perkinscoie.com

William B. Stafford (WA #39849)*
Jonathan P. Hawley (WA #56297)*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
wstafford@perkinscoie.com
jhawley@perkinscoie.com

John F. Walsh (CO #16642)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1225 Seventeenth Street, Suite 2600
Denver, Colorado 80202
Telephone: (720) 274-3154
john.walsh@wilmerhale.com

/s/ Scott R. Eldridge

Scott R. Eldridge (P66452)
MILLER CANFIELD
One Michigan Avenue, Suite 900
Lansing, Michigan 48933
Telephone: (517) 483-4918
eldridge@millercanfield.com

Mary Ellen Gurewitz (P25724)
CUMMINGS & CUMMINGS
423 North Main Street, Suite 200
Royal Oak, Michigan 48067
Telephone: (248) 733-3405
maryellen@cummingslawpllc.com

Seth P. Waxman (DC #257337)
Brian M. Boynton (DC #483187)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue NW
Washington, D.C. 20006
Telephone: (202) 663-6000
seth.waxman@wilmerhale.com
brian.boynton@wilmerhale.com

*Counsel for Intervenor-Defendants DNC Services Corporation/Democratic
National Committee and Michigan Democratic Party*

**Admission forthcoming*